

AMENDED IN SENATE AUGUST 6, 2014  
AMENDED IN SENATE AUGUST 4, 2014  
AMENDED IN SENATE JUNE 30, 2014  
AMENDED IN SENATE JUNE 16, 2014  
AMENDED IN ASSEMBLY JANUARY 6, 2014  
AMENDED IN ASSEMBLY SEPTEMBER 11, 2013  
AMENDED IN ASSEMBLY APRIL 16, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1153**

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**Introduced by Assembly Member Eggman**  
(Coauthor: Senator Wyland)

February 22, 2013

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An act to amend Sections 7312, 7316, 7320, ~~and 7324~~, *and 7423* of, and to add Sections 7320.6 and 7324.5 to, the Business and Professions Code, relating to barbering and cosmetology.

LEGISLATIVE COUNSEL'S DIGEST

AB 1153, as amended, Eggman. Barbering and cosmetology.

Existing law, the Barbering and Cosmetology Act, provides for the licensure and regulation of barbers and cosmetologists, including the practice of skin care by licensed estheticians, by the State Board of Barbering and Cosmetology in the Department of Consumer Affairs. The act defines skin care and requires an applicant for an esthetician license to complete an application, pay an application and examination fee, pass the examination, and meet other educational and practice

qualifications, such as the completion of an approved skin care course of instruction, as specified. A violation of the act is a crime, unless otherwise provided.

This bill would modify the practice of cosmetology by including the practice of giving facials, the use of esthetic devices, as defined, and performing superficial exfoliation, and would modify the practice of skin care, by including the use of esthetic devices, as defined, and performing superficial exfoliation for these purposes. The bill would require the ~~State Board of Barbering and Cosmetology~~ *board* to recognize the advanced practice of esthetic by certifying a master esthetician who has completed a 1,200-hour *board-approved* program in advanced esthetics, but an individual enrolling in a master esthetician course who has completed the 600-hour esthetician course from a board-approved school would only be required to obtain the additional 600 hours of practical and technical training not received in the initial 600-hour esthetician course. The bill would make it an unfair business practice for any person to hold oneself out or use the title “master esthetician” or any other specified term that implies or suggests that the person is certified as a master esthetician without meeting the certification requirements. The bill would also prohibit a person who is not licensed as an esthetician from representing himself or herself as an esthetician. The bill would also clarify that the prohibition on those licensed to engage in barbering, cosmetology, skin care, nail care, and electrolysis to practice medicine or surgery would include, but not be limited to, the use of radiographs, the furnishing of drugs or invasive devices, supervising medical personnel, or diagnosing injury, illness, or disease. Because a violation of these provisions would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 7312 of the Business and Professions
- 2 Code is amended to read:

1     7312. The board shall do all of the following:

2     (a) Make rules and regulations in aid or furtherance of this  
3 chapter in accordance with the Administrative Procedure Act.

4     (b) Conduct and administer examinations of applicants for  
5 licensure.

6     (c) Issue licenses to those applicants that may be entitled thereto,  
7 and encourage those licensees to continue to develop their skills  
8 in the appropriate application and use of evolving industry  
9 techniques, products, and equipment by recognizing industry  
10 ~~certifications~~ *certifications that meet appropriate standards*  
11 *approved by the board.*

12     (d) Discipline persons who have been determined to be in  
13 violation of this chapter or the regulations adopted pursuant to this  
14 chapter.

15     (e) Adopt rules governing sanitary conditions and precautions  
16 to be employed as are reasonably necessary to protect the public  
17 health and safety in establishments, schools approved by the board,  
18 and in the practice of any profession provided for in this chapter.  
19 The rules shall be adopted in accordance with the Administrative  
20 Procedure Act, Chapter 3.5 (commencing with Section 11340) of  
21 Part 1 of Division 3 of Title 2 of the Government Code, and shall  
22 be submitted to the State Department of Health Services and  
23 approved by that department prior to filing with the Secretary of  
24 State. A written copy of all those rules shall be furnished to each  
25 licensee.

26     SEC. 2. Section 7316 of the Business and Professions Code is  
27 amended to read:

28     7316. (a) The practice of barbering is all or any combination  
29 of the following practices:

30         (1) Shaving or trimming the beard or cutting the hair.

31         (2) Giving facial and scalp massages or treatments with oils,  
32 creams, lotions, or other preparations either by hand or mechanical  
33 appliances.

34         (3) Singeing, shampooing, arranging, dressing, curling, waving,  
35 chemical waving, hair relaxing, dyeing the hair, or applying hair  
36 tonics.

37         (4) Applying cosmetic preparations, antiseptics, powders, oils,  
38 clays, or lotions to the scalp, face, or neck.

39         (5) Hairstyling of all textures of hair by standard methods that  
40 are current at the time of the hairstyling.

(b) The practice of cosmetology is all or any combination of the following practices:

(1) Arranging, dressing, curling, waving, machineless permanent waving, permanent waving, cleansing, cutting, shampooing, relaxing, singeing, bleaching, tinting, coloring, straightening, dyeing, applying hair tonics to, beautifying, or otherwise treating by any means, the hair of any person.

(2) Giving facials or the practice of massaging, stimulating, exfoliating, cleansing, or beautifying the face, scalp, neck, or body by use of hands, esthetic devices, cosmetic preparations, antiseptics, lotions, tonics, or ~~creams~~; *creams that do not result in ablating or destroying live tissue.*

(A) Esthetic devices include, but are not limited to, steamers, mechanical brushes, high frequency, galvanic current, vacuum and spray, light emitting diode (LED), and skin analysis equipment.

(B) Esthetic devices shall be operated in accordance with the manufacturer's written instructions. The devices shall be intended for improving the appearance of the skin and shall ~~be operated within the following guidelines~~; *not be designed to ablate or destroy live tissue.*

~~(i) Noninvasive, pursuant to United States Food and Drug Administration guidelines.~~

~~(ii) Not designed to ablate or destroy live tissue.~~

(3) Performing superficial exfoliation procedures on the ~~top layer of the skin (stratum corneum)~~ *nonliving upmost layers of the skin, known as the epidermis*, on the face and body using commercially available products, in accordance with the manufacturer's written instructions, including, but not limited to, all of the following:

(A) Manual scrubs, including mechanical brush use, which includes application of a cosmetic product with mild abrasive ingredients that remove dead skin cells.

~~(B) Superficial chemical exfoliation of the stratum corneum.~~  
*epidermis.*

~~(C) Enzyme or herbal exfoliation of the stratum corneum.~~  
*epidermis.*

(D) Extraction with a nonneedle extraction tool. Extraction includes the manual removal of comedones (blackheads) and other surface impurities with the use of fingers or sterile swabs.

(E) Mechanical exfoliation devices such as microdermabrasion.

1 (4) Removing superfluous hair from the body of any person by  
2 the use of tweezers, sugaring, nonprescription chemicals, waxing,  
3 or mechanical means.

4 (5) Applying makeup or eyelashes to any person.

5 (6) Cutting, trimming, polishing, tinting, coloring, cleansing,  
6 or manicuring the nails of any person.

7 (7) Massaging, cleansing, treating, or beautifying the hands or  
8 feet of any person.

9 (c) Within the practice of cosmetology there exist the specialty  
10 branches of skin care and nail care.

11 (1) Skin care is any one or more of the following practices:

12 (A) Giving facials or the practice of massaging, stimulating,  
13 exfoliating, cleansing, or beautifying the face, scalp, neck, or body  
14 by use of hands, esthetic devices, cosmetic preparations, antiseptics,  
15 lotions, tonics, or creams that does not result in ablating or  
16 destroying live tissue.

17 (i) Esthetic devices include, but are not limited to, steamers,  
18 mechanical brushes, high frequency, galvanic current, vacuum and  
19 spray, light emitting diode (LED), and skin analysis equipment.

20 (ii) Esthetic devices shall be operated in accordance with the  
21 manufacturer's written instructions. The devices shall be intended  
22 for improving the appearance of the skin and shall ~~be operated~~  
23 ~~within the following guidelines:~~ *not be designed to ablate or*  
24 *destroy live tissue.*

25 ~~(I) Noninvasive, pursuant to United States Food and Drug~~  
26 ~~Administration guidelines.~~

27 ~~(II) Not designed to ablate or destroy live tissue.~~

28 (B) Performing superficial exfoliation procedures on the ~~top~~  
29 ~~layer of the skin (stratum corneum)~~ *nonliving upmost layers of the*  
30 *skin, known as the epidermis*, on the face and body using  
31 commercially available products, in accordance with the  
32 manufacturer's written instructions, including, but not limited to,  
33 all of the following:

34 (i) Manual scrubs, including mechanical brush use, which  
35 includes application of a cosmetic product with mild abrasive  
36 ingredients that remove dead skin cells.

37 (ii) Superficial chemical exfoliation of the ~~stratum corneum.~~  
38 *epidermis.*

39 (iii) Enzymes or herbal exfoliation of the ~~stratum corneum.~~  
40 *epidermis.*

(iv) Extraction with a nonneedle extraction tool. Extraction includes the manual removal of comedones (blackheads) and other surface impurities with the use of fingers or sterile swabs.

(v) Mechanical exfoliation devices such as microdermabrasion.

(C) Removing superfluous hair from the body of any person by the use of tweezers, sugaring, chemicals, waxing, or mechanical means.

(D) Applying makeup or eyelashes to any person.

(2) Nail care is the practice of cutting, trimming, polishing, coloring, tinting, cleansing, manicuring, or pedicuring the nails of any person or massaging, cleansing, or beautifying from the elbow to the fingertips or the knee to the toes of any person.

(d) The practice of barbering and the practice of cosmetology do not include any of the following:

(1) The mere sale, fitting, or styling of wigs or hairpieces.

(2) Natural hair braiding. Natural hair braiding is a service that results in tension on hair strands or roots by twisting, wrapping, weaving, extending, locking, or braiding by hand or mechanical device, provided that the service does not include haircutting or the application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair.

(3) Threading. Threading is a technique that results in removing hair by twisting thread around unwanted hair and pulling it from the skin and the incidental trimming of eyebrow hair.

(e) Notwithstanding paragraph (2) of subdivision (d), a person who engages in natural hairstyling, which is defined as the provision of natural hair braiding services together with any of the services or procedures defined within the regulated practices of barbering or cosmetology, is subject to regulation pursuant to this chapter and shall obtain and maintain a barbering or cosmetology license as applicable to the services respectively offered or performed.

(f) Electrolysis is the practice of removing hair from, or destroying hair on, the human body by the use of an electric needle only.

“Electrolysis” as used in this chapter includes electrolysis or thermolysis.

(g) Nothing in this section shall be interpreted to allow a licensee to use lasers.

SEC. 3. Section 7320 of the Business and Professions Code is amended to read:

7320. This chapter does not confer authority to practice medicine or surgery, including, but not limited to, the use of radiographs, the furnishing of drugs or invasive devices, supervising medical personnel, or diagnosing injury, illness, or disease.

SEC. 4. Section 7320.6 is added to the Business and Professions Code, to read:

7320.6. A person who is not licensed as an esthetician in this state shall not represent himself or herself as an esthetician.

SEC. 5. Section 7324 of the Business and Professions Code is amended to read:

7324. The board shall admit to examination for a license as an esthetician to practice skin care any person who has made application to the board in proper form and paid the application and examination fee required by this chapter, and who is qualified as follows:

- (a) Is not less than 17 years of age.
- (b) Has completed the 10th grade or its equivalent.
- (c) Is not subject to denial pursuant to Section 480.
- (d) Has done any of the following:
  - (1) Completed a course in skin care, as described in Section 7364, from a school approved by the board.
  - (2) Practiced skin care, as defined in this chapter, outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in skin care from a school the curriculum of which complied with requirements adopted by the board. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).
  - (3) Completed the apprenticeship program in skin care specified in Article 4 (commencing with Section 7332).

SEC. 6. Section 7324.5 is added to the Business and Professions Code, to read:

7324.5. (a) The board shall recognize the advanced practice of esthetics by certifying a master esthetician who has completed a 1,200-hour *board-approved* program in advanced esthetics. An individual enrolling in a 1,200-hour master esthetician course who has completed the 600-hour esthetician course from a

1 board-approved school is only required to obtain the additional  
2 600 hours of practical and technical training not received in the  
3 initial 600-hour esthetician course. *The additional practical and*  
4 *technical training shall be approved by the board.*

5 (b) It is an unfair business practice for any person to hold oneself  
6 out or use the title of “master esthetician” or any other term, such  
7 as “licensed,” “registered,” or “CME,” that implies or suggests  
8 that the person is certified as a master esthetician without meeting  
9 the requirement in subdivision (a).

10 SEC. 7. *Section 7423 of the Business and Professions Code is*  
11 *amended to read:*

12 7423. The amounts of the fees required by this chapter relating  
13 to licenses for individual practitioners are as follows:

14 (a) (1) Cosmetologist application and examination fee shall be  
15 the actual cost to the board for developing, purchasing, grading,  
16 and administering the examination.

17 (2) A cosmetologist initial license fee shall not be more than  
18 fifty dollars (\$50).

19 (b) (1) An esthetician application and examination fee shall be  
20 the actual cost to the board for developing, purchasing, grading,  
21 and administering the examination.

22 (2) An esthetician initial license fee shall not be more than forty  
23 dollars (\$40).

24 (3) *A master esthetician certification fee shall not be more than*  
25 *forty dollars (\$40).*

26 (c) (1) A manicurist application and examination fee shall be  
27 the actual cost to the board for developing, purchasing, grading,  
28 and administering the examination.

29 (2) A manicurist initial license fee shall not be more than  
30 thirty-five dollars (\$35).

31 (d) (1) A barber application and examination fee shall be the  
32 actual cost to the board for developing, purchasing, grading, and  
33 administering the examination.

34 (2) A barber initial license fee shall be not more than fifty dollars  
35 (\$50).

36 (e) (1) An electrologist application and examination fee shall  
37 be the actual cost to the board for developing, purchasing, grading,  
38 and administering the examination.

39 (2) An electrologist initial license fee shall be not more than  
40 fifty dollars (\$50).



1 (f) An apprentice application and license fee shall be not more  
2 than twenty-five dollars (\$25).

3 (g) The license renewal fee for individual practitioner licenses  
4 that are subject to renewal shall be not more than fifty dollars  
5 (\$50).

6 (h) Notwithstanding Section ~~163.5~~ 163.5, the license renewal  
7 delinquency fee shall be 50 percent of the renewal fee in effect on  
8 the date of renewal.

9 (i) Any preapplication fee shall be established by the board in  
10 an amount sufficient to cover the costs of processing and  
11 administration of the preapplication.

12 ~~SEC. 7.~~

13 *SEC. 8.* No reimbursement is required by this act pursuant to  
14 Section 6 of Article XIII B of the California Constitution because  
15 the only costs that may be incurred by a local agency or school  
16 district will be incurred because this act creates a new crime or  
17 infraction, eliminates a crime or infraction, or changes the penalty  
18 for a crime or infraction, within the meaning of Section 17556 of  
19 the Government Code, or changes the definition of a crime within  
20 the meaning of Section 6 of Article XIII B of the California  
21 Constitution.